

NEBRASKA BOARD OF PHARMACY
MEETING MINUTES
July 27, 2006

ROLL CALL

Curt Barr, R.P. Chair, called the meeting of the Board of Pharmacy to order at 8:00 a.m. in the Regents D & E Conference Rooms of Embassy Suites, located at 1040 P Street, Lincoln, NE. Copies of the agenda were sent to Board members and other interested parties prior to the meeting. The following Board members answered roll call:

C. Curt Barr, R.P., Chairperson
Kevin Borchert, R.P., Vice-Chairperson
Linda Labenz, Secretary
Richard Zarek, R.P.
Roger Kaczmarek, R.P.

A quorum was present and the meeting convened.

Also present from the Department were: Becky Wisell, Section Administrator; Vonda Apking, Credentialing Coordinator; Cecilia Curtis-Beard, Credentialing Specialist; Pharmacy Inspectors: Tony Kopf, R.P., Ronald Klein, R.P., and Mike Swanda, R.P.; Duane Newland, Jeff Newman, and Susanne Rydberg Investigators, and Michael Grutsch, P.A., Program Manager, from Investigations Division; and Lisa Anderson, Assistant Attorney General.

REVIEW OF AGENDA

Additions, Modification, Reordering

Zarek requested the Board remove the applications of Jonathan Merchen, Lalita Prasad, John Johnson and Med4Home, from the consent agenda for further discussion. Borchert asked the Board to also remove Patrick Marks, Jeanne Stasny and Mike Halbert. Barr asked the Board to remove the Revised Prescribing Chart from the consent agenda.

Adoption of Consent Agenda

Zarek moved, seconded by Labenz, to approve the consent agenda as amended. Voting aye: Barr, Borchert, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

Adoption of Agenda

Zarek moved, seconded by Labenz, to approve the agenda as amended with the Chairperson having the authority to rearrange as needed. Voting aye: Barr, Borchert, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

CHANGES IN THE OPEN MEETINGS ACT

Wisell explained the changes to the Open Meetings Act to the Board. The Act requires that the purpose for going into close session is to be clearly stated and a copy of the Act must be posted at the entrance of the meeting room.

INVESTIGATIONAL REPORTS, DISCIPLINARY REPORTS, CONTROLLED SUBSTANCES AUDIT REPORTS, AND QUARTERLY REPORT FROM INVESTIGATIONS– CLOSED SESSION

Zarek moved, seconded by Kaczmarek, to close the session at 8:10 a.m. to receive investigation reports, disciplinary reports, controlled substances audit reports, and quarterly report from Investigations. Voting aye: Barr, Borchert, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

Zarek recused himself from the meeting at 8:37 a.m. Zarek returned to the meeting at 9:01 a.m.

Barr recused himself from the meeting at 9:07a.m. Barr returned to the meeting at 9:17 a.m.
Kaczmarek recused himself from the meeting at 9:51 a.m. Kaczmarek returned to the meeting at 9:59.

Kaczmarek moved, seconded by Zarek, to reopen the session at 12:45 p.m. Voting aye: Barr, Borchert, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

DISCIPLINARY/NON-DISCIPLINARY INFORMATION – ACTIONS TAKEN/PENDING –CONSENT – OPEN SESSION

(8) Disciplinary/Non-Disciplinary Information – Actions Taken/Pending – Consent

Disciplinary/Non-Disciplinary Information – Actions Taken/Pending

Name	Actions Taken and/or Pending	Alleged Violation
Asher, Richard	Petition for Disciplinary Action 2/27/06 Continued – no date specified	Failure to maintain accurate records of receipt and disposition of all controlled substances accepted into inventory.
Bader, Tom	Order on Reconsideration 5/23/06 <ul style="list-style-type: none"> Delete the Censure Note: While the Chief medical Officer finds that this omission on the Nebraska application is not sufficient to deny licensure in this case, Mr. Bader is reminded of his duty, as a person privileged to be licensed in the health care field, to take personal responsibility for insuring accuracy and overall professionalism in any dealings with the public and the licensing authorities in states where he is licensed.	Answered “No” to having ever been disciplined, but documentation showed that he had been disciplined in Colorado.
Clausen, Eric (Intern)	Amended Petition for Disciplinary Action 5/5/06 Findings of Fact, Conclusions of Law and Order 7/6/06 <ul style="list-style-type: none"> Revocation 	Opioid dependence; possession of a controlled substance without a valid prescription; use of a controlled substance without a valid prescription.
Halfhide, Arthur	Petition for Disciplinary Action 4/19/06 Order on Agreed Settlement 5/15/06 <ul style="list-style-type: none"> 90 day Suspension 3 year Probation Required to take the MPJE examination 	Dispensing medications to persons who have not been assessed or provided a valid prescription by an authorized provider constitutes unlawful practice of medicine; practicing pharmacy in a pattern of negligent conduct; dispensing without a medical order; dispensing medications without a label affixed to a prescription bottle.

Name	Actions Taken and/or Pending	Alleged Violation
Hardman, Joann	Petition for Disciplinary Action 4/19/06 Order on Agreed Settlement 5/15/06 <ul style="list-style-type: none"> Censure Civil Penalty of \$3,000 Required to take a record keeping course Limitation: Cannot be PIC	Inability as pharmacist in charge to maintain complete and accurate records of receipt and disposition of all controlled substances.
Holloway, Randall	Petition for Disciplinary Action 5/22/06 Pending Order	Overfilling prescriptions for controlled substance cough medication for his wife, refilling prescriptions too soon and refilling prescriptions too often; dispensing promethazine with codeine to his wife without prescriber authorization; dispensing promethazine with codeine without a prescription, and personal use of the drug without a prescription.
Hooi, Tony G.	Petition for Disciplinary Action 3/30/06 Order on Agreed Settlement 7/6/06 <ul style="list-style-type: none"> Required to take the University of Florida Basic Error Prevention Techniques Course 	Failure to conduct an adequate drug utilization review prior to dispensing of the drug.
Irish, Kevin	Petition for Disciplinary Action 3/31/06 Hearing 6/1/06 Motion to Re-Open Case 7/11/06	Four convictions of Driving Under the Influence; alcohol dependence; failure to report misdemeanor conviction within 30 days.
O'Grady, Greg	Petition for Disciplinary Action 4/4/06 Amended Petition for Disciplinary Action 4/25/06 Order on Agreed Settlement 7/6/06 <ul style="list-style-type: none"> Required to take the University of Florida Basic Error Prevention Techniques Course 	Failure to conduct an adequate drug utilization review prior to dispensing a refill prescription for Lamictal.
Pranno, Faith Mary	Petition for Disciplinary Action 10/4/05 Dismissed	Dispensed a medical order for "Brookhouser Solution" compounded by a pharmacy technician. The solution dispensed was compounded using 176 mg of Atropine instead of .176 mg. Admitted that she was the pharmacist responsible for verifying the accuracy of the medical order.
Name	Actions Taken and/or Pending	Alleged Violation
Solomon, Sarah	Petition for Disciplinary Action 4/27/06	Failure to conduct adequate drug utilization review prior to dispensing drugs.

	<p>Order of Agreed Settlement 5/15/06</p> <ul style="list-style-type: none"> • 1 year Probation • Complete CE course • Submit monthly prescription error reports 	
Stride, Raymond	<p>Petition for Disciplinary Action 4/18/06</p> <p>Order on Agreed Settlement 5/15/06</p> <ul style="list-style-type: none"> • Voluntary Surrender 	Failure to report license limitation taken by Alaska to the Department within 30 days.
Sysel, Stewart	<p>Petition for Disciplinary Action 2/17/06</p> <p>Findings of Fact, Conclusions of Law and Order 4/26/06</p> <ul style="list-style-type: none"> • Required to take the University of Florida Basic Error prevention Techniques Course 	Dispensed prescription to an infant for Zantac with directions to take ¾ tsp bid and it should have been take ¾ ml bid.
Walgreens Healthcare Plus	<p>Refusal to Renew 1/27/06</p> <p>Pending Order</p>	Not employing a Nebraska licensed pharmacist; past disciplinary action in another state.
Wendover, David	<p>Petition for Disciplinary Action 3/14/06</p> <p>Findings of Fact, Conclusions of Law and Order 5/15/06</p> <ul style="list-style-type: none"> • Revocation 	Theft of pharmaceuticals from place of employment; Opioid dependency; possession of controlled substances without a valid prescription; discipline against Kansas license.
Wendt, Michael	<p>Petition for Disciplinary Action 6/15/06</p> <p>Order on Agreed Settlement 7/5/06</p> <ul style="list-style-type: none"> • 1 year Probation • Required to take the University of Florida Basic Error prevention Techniques Course 	Dispensed prescription for Coumadin with directions to take 1 ½ tablets of Coumadin 2mg but dispensed Coumadin 5 mg.

Non-Disciplinary Information – Actions Taken/Pending

Name	Actions Taken and/or Pending	Alleged Violation
Devitt, Allen	Assurance of Compliance 7/2/06	Inaccurate reporting on DEA loss forms, because the pharmacy's perpetual inventory was incorrect. Department audit revealed shortages and significant overages of controlled substances.
Mueller, Royce (Physician)	Assurance of Compliance 6/22/06	Practicing without a dispensing practitioner license; improper labeling of dispensed medication.

(11A) Pharmacist Intern with Misdemeanor/Felony Convictions (1)

(11B) Pharmacist Applications with Disciplinary Action (7)

(11D) Mail Service Pharmacy Renewal with Past Disciplinary Action (2)

(12) Pharmacy Technician Manuals (6)

(14) Pharmaceutical Care Agreements

APPLICATION REVIEW

Borcher moved, seconded by Labenz, to approve the initial pharmacist licensure application of Patrick Marks. Voting aye: Barr, Borcher, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

Kaczmarek moved, seconded by Borcher, to approve the initial pharmacist licensure application of Jonathan Merchen. Voting aye: Barr, Borcher, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

Zarek moved, seconded by Labenz, to approve the initial pharmacist licensure application of Lalita Prasad. Voting aye: Barr, Borcher, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

Borcher moved, seconded by Zarek, to approve the initial pharmacist licensure application of Jeanne Stansy. Voting aye: Barr, Borcher, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

Borcher moved, seconded by Zarek, to approve the reinstatement application of Michael Halbert. Voting aye: Barr, Borcher, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

Labenz moved, seconded by Zarek, to deny the reinstatement application of John Johnson. The basis for this denial is due to the following: active dependence on alcohol. The Board made the following suggestions for addressing this dependency:

1) Find and maintain a current Alcoholics Anonymous (AA) sponsor and start attending AA meetings on a regular basis; 2) Follow the recommendations of Pharmacists Assisting Pharmacists of Arizona (PARA) and the Nebraska Licensee Assistance Program (LAP); 3) Find and maintain a Nebraska physician to provide care and/or treatment for his bipolar disorder and for any other medical issues; and 4) Abstain from the consumption of alcohol. Voting aye: Borcher, Kaczmarek, Labenz, and Zarek. Voting nay: None. Abstained: Barr. Motion carried.

Zarek moved, seconded by Labenz, to deny the reinstatement application of Milton Munson. The basis for this denial is due to the following: extensive history of unprofessional conduct, history of criminal convictions; history of alcohol/substance abuse; and not complying with treatment/aftercare recommendations. Voting aye: Barr, Borcher, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

Kaczmarek moved, seconded by Labenz, to fine Med4Home Pharmacy \$5,000 for nondisclosure of their disciplinary action on the mail service renewal application. Voting aye: Barr, Borcher, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

PHARMACY TECHNICIAN MANUALS (6) – CONSENT

PHARMACEUTICAL CARE AGREEMENTS (2) - CONSENT

REGULATIONS DEVELOPMENT

Wholesale Drug Distribution Draft Regulations

Barr thanked everyone who participated in developing the draft regulations.

Roger Brink explained that the statutory language could be interpreted to either exempt manufacturers from licensure requirements completely or develop language to require manufacturers to meet certain licensure requirements. The Board discussed the FDA's regulations in regards to manufacturer licensing. Kelly Broyca, Pfizer, offered to check if FDA monitors manufacturers overseas and to what extent they monitor manufacturers in the United States.

Mr. Brink also explained how the definition of wholesaler drug distribution would affect reverse distribution. Mr. Brink commented that the statutory language is very specific for returning drugs. Wisell explained that most states recognize reverse distributors as wholesalers. Zarek said they are not a threat because they do not sell. The Board agreed reverse distributors are not distributing, except they do destroy drugs. Mr. Brink explained that the statutory language would need to be changed in order to use reverse distributors. Zarek questioned how these regulations would affect pharmacy co-op's. Mr. Brink and Wisell will research this issue further and will also compare the draft language to the new National Association of Boards of Pharmacy (NABP) language. The Board discussed the changes to the draft language page by page. The Board requested to make changes and bring back to the September meeting. **Action Item: Staff will make suggested changes to the draft regulations and bring back to the next meeting.** **Agenda Item: Regulations Development - Wholesale Drug Distributor**

PRESENTATION OF NABP RECOGNITION RESOLUTION – JAN ANDERSON (2:00 P.M.)

Barr presented Ms. Jan Anderson with the NABP's Recognition Resolution Award for Dyke Anderson, R.P. for his contribution to the profession of pharmacy. The Board also presented Ms. Anderson with a plaque commemorating Mr. Anderson for his contribution to the Nebraska Board of Pharmacy in protecting the health and safety of Nebraska citizens.

PRACTICE QUESTION – RELABELING REQUIREMENTS FOR PATIENTS IN A NURSING HOME

The board discussed labeling in nursing homes. The Board commented that medications are to be labeled with current directions. Nurses are to administer based on the most current order from the prescriber. Sliding scales should be on the label if there is enough room, but the label can refer to an attached list of directions. Prescriber orders could specifically state "take as directed" or "administer as indicated in MAR", then those directions need to be on the label. **Action Item: Write a newsletter article and put in the next newsletter.**

APPROVAL OF MINUTES

May 8, 2006

Page 1-4: No changes.

Page 5: Under Non-Disciplinary Information, for Laura Volcek, under the Alleged Violation column, the word "metrionidazole" was misspelled it should read "metronidazole".

Under Approval of Minutes, for March 6, 2006, page 5, line 3, capitalize the word "management".

Page 6: Under Wholesale Drug Distribution Act (LB318), the 2nd sentence, add the word "and" after the word "passed".

Page 7-9: No changes.

Zarek moved, seconded by Roger, to approve minutes from May 8, 2006 as amended. Voting aye: Barr, Borchert, Kaczmarek, Labenz, and Zarek. Voting nay: None. Motion carried.

REVISED PRESCRIBERS AND PRESCRIBING CHART APPROVAL

Zarek moved, seconded by Labenz, to approve the Revised Prescribers and Prescribing Chart. Voting aye: Barr, Borchert, Kaczmarek, Labenz, and Zarek. Absent: None. Voting nay: None. Motion carried.

FINANCIAL REPORT

Budget Status Report

Wisell explained the financial report. The financial report shows that the Board is within budget. The cash balances have been updated and as of June 2006 the balance is approximately \$748,438.

FY07 Budget Approval

Wisell informed the Board she did not have a budget to approve at this time. **Action Item:** Wisell will prepare the FY07 Budget. **Agenda Item:** FY07 Budget Approval.

2007 LEGISLATION

Uniform Licensing Law Rewrite

Wisell explained that the Department has been working with the bill drafter on the changes to the ULL and the practice acts. The draft will be sent to the stakeholders in September.

Practice Act Changes

Wisell explained that for uniformity the word “patient” has been changed to “consumer”. After some discussion, the Board agreed that they prefer keeping the word “patient”. Wisell also explained language stating that no fee is charged for obtaining a temporary educational permit. The Board wants to be able to charge a fee. Wisell explained that the Department is not accepting any additional changes to the practice acts.

Registering Pharmacy Technicians

Zarek explained that the workgroup suggested that pharmacy technician registration language should be placed in a separate act. This would allow them to only be required to mandatory report certain issues on pharmacists. The Board discussed pharmacy technicians being added to the ULL. Barr commented that if technicians are added to the ULL, then they would have access to the diversion program. Zarek commented that the workgroup could develop language on the requirements for licensing, for retaining a license, and for disciplining a license.

Wisell informed the Board that the Department will not be introducing legislation concerning the registration of pharmacy technicians during the 2007 Legislative Session. However, the Board could ask another party to introduce this legislation. Wisell added that Dr. Schaefer would be available to speak to the Board about her decision. **Action Item:** The Board would like Dr. Schafer to attend the next meeting on September 11th to discuss her decision.

UPDATE FROM THE WORKGROUP ON AUTOMATED DISPENSING

Borcher explained that the Nebraska Pharmacist Association (NPA) committee is developing draft language. The plan is to have this draft language introduced during the 2007 Legislative Session.

REGULATIONS DEVELOPMENT

Immunosuppressant Repository

The Board discussed the possibility of the pharmacy inspectors inspecting each facility for compliance to the act. The Board requested that Wisell ask Roger Brink if the statutes allow for the facility to be inspected. **Action Item:** Wisell to ask Roger Brink whether the Immunosuppressant Repository Act allows for the facility to be inspected. **Agenda item:** Regulations Development – Immunosuppressant Repository Act.

Possible Regulations Pertaining to Community Health Centers Relabeling and Redispensing (\$71-2431)

The Board commented that the statutes are sufficient and there was no need for regulations.

UPDATE ON 175 NAC 8 REGULATIONS GOVERNING PHARMACIES

Wisell and Joni Cover, NPA, both stated they were pleased that a definition for Long-Term Care (LTC) facility was added. Wisell also commented that a Disaster Preparedness template could be made available for pharmacies.

The Board discussed whether dispensed medications should be accepted for return from an assisted living facility. The Board explained that their concern is that medications are not in control of a healthcare professional at all times because assisted living facilities do not require a nurse to be at the facility constantly.

UPDATE ON 181 NAC 6 CANCER DRUG REPOSITORY PROGRAM

The Department will be setting these draft regulations for hearing.

PATIENT SAFETY RFP UPDATE

Apking stated the deadline for the Dyke Anderson Grant is August 3rd. At this time, no applications have been received. Plans are to have recommendations for dispersing the monies at the September meeting.

PRESCRIPTION DRUG MONITORING PROGRAM (PMP) GRANT

Klein will finalize the grant language and present to the Board at the September meeting. The Board suggested sharing the grant language with the Board of Medicine and Surgery.

NABP ISSUES

Request for Comments Regarding Importation of Drugs from Canadian Pharmacies

The Board was concerned whether any mail service pharmacies located in Nevada were licensed in Nebraska. **Action Item:** Staff will forward information to the Board.

2006 Fall Educational Conference – November 3-4, 2006, in Savannah GA

Wisell informed the Board if anyone is planning to attend this conference contact the office for information.

COMMITTEE REPORTS

MPJE Committee

Kaczmarek commented that Kopf and he had attended an MPJE meeting in Chicago.

Tri-Partite Committee on Internship

Labenz stated there was nothing to report at this time. Barr said this committee should review the Dyke Anderson RFPs.

Formulary Advisory Committee

Nothing to report at this time.

ACTION ITEMS

The Board discussed the Action item list.

Zarek, Labenz, Borchert and Barr will attend the District V meeting in Winnipeg, Manitoba, Canada for August 11-12, 2006.

CORRESPONDENCE AND GENERAL INFORMATION

Wisell informed the Board that the Board of Health has a vacancy. The deadline for nominations for the vacancy is August 1st. The next All Board Member meeting is scheduled for September 29th in Omaha at the UNO campus.

ADJOURNMENT

Borchert moved, seconded by Zarek, to adjourn the meeting at 6:22 p.m. Voting aye: Barr, Borchert, Kaczmarek, Labenz, and Zarek. Absent: None. Voting nay: None. Motion carried.

Respectfully submitted,

(Signature on file with the Department)

Kevin Borchert, Vice-Chairperson
Board of Pharmacy